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SEP 21 2011

STATE OF WASHINGTON  
GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DEPT

In the Matter of the Suspension or Revocation of the)  
Certification to Conduct Gambling Activities of: )

NO. CR 2011-00530

SETTLEMENT ORDER

Brinnon Aasted )  
Auburn, Washington, )

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Class III Employee. )

OCT 10 2011

GAMBLING COMMISSION  
COMM & LEGAL DEPT

I.

This Settlement Order is entered into between the Washington State Gambling Commission and Brinnon Aasted. The Gambling Commission is represented by Brian Considine, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney. The Class III Employee is representing himself.

II.

The Washington State Gambling Commission issued Brinnon Aasted the following certification:<sup>1</sup>

Number 69-24986, authorizing Class III Employee activity with Muckleshoot Casino.

The certification expires on March 21, 2012, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Muckleshoot Tribal/State Compact.

III.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the Class III Employee on June 8, 2011.

IV.

The following is a summary of the facts alleged, and the violations charged in the Notice of Administrative Charges:

1) On March 25, 2011, a Commission Special Agent (agent) was assigned to Mr. Aasted's file to investigate his qualification for continued certification in light of his outstanding court-ordered fines and fees. Mr. Aasted has been certified since 2007 to work at the Muckleshoot Casino. Mr. Aasted is also a Muckleshoot Tribal Member.

<sup>1</sup> The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Class III employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

2) The agent observed that Mr. Aasted failed to pay court-ordered fines and fees, and \$3,696.91 has been sent to collections due to his nonpayment.

3) Additional review of Mr. Aasted's certification file showed the following:

- On March 25, 2010, the agent sent a letter to Marena Cross, Muckleshoot Tribal Gaming Licensing Supervisor, notifying her of Commission staff's concerns regarding Mr. Aasted's unpaid fines and fees. The letter notified Ms. Cross that the Commission was not pursuing administrative action at that time, but encouraged Mr. Aasted to begin complying with his court obligations to "avoid possible administrative action in the future."
- On February 22, 2011, the agent sent Ms. Cross another notification letter regarding Mr. Aasted's increased collection balances. The letter also stated that based on his pattern of criminal history, including his failure to comply with court ordered fines and fees, Mr. Aasted may pose a threat to the effective regulation of gaming and enhance the chances of unfair or illegal practices. Commission staff was also concerned that since Mr. Aasted had failed to comply with a judge's rulings, he may not comply with internal control requirements or adhere to the direction of the Tribal Gaming Agency or the State Gaming Agency<sup>2</sup> in the future. The purpose of the February 2011 letter was to notify Ms. Cross that in 20 days from the date of the letter, the agent was going to start writing a case report stating why Mr. Aasted may not continue to qualify for certification, and that the agent would recommend revocation of Mr. Aasted's certification.

4) On March 15, 2011, the agent spoke to Ms. Cross. Ms. Cross informed the agent that the Muckleshoot Gaming Agency may seek to conditionally certify<sup>3</sup> Mr. Aasted.

5) On March 28, 2011, Commission staff received a copy of a letter from Ms. Cross to Mr. Aasted, informing Mr. Aasted that "to avoid any interruption or possible suspension and/or revocation" of his Tribal License, he must take "immediate action" to resolve his court obligations.

6) On April 15, 2011, the agent called Ms. Cross. The agent told Ms. Cross that she was starting her case report regarding Mr. Aasted's outstanding fines and fees. Ms. Cross said that Mr. Aasted had had more than enough time to take care of his obligations. She also told the agent that since Mr. Aasted is a Tribal Member, he receives four per-capita checks per year from the Tribe and also has access to loans through the Tribe. Ms. Cross said that the agent should go forward with her report to recommend revocation of his certification.

7) As a result of his fines and fees being in collections, the court issued Mr. Aasted four Failures to Appear. Through his actions the licensee has demonstrated willful disregard for complying with court orders.

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<sup>2</sup> Washington State Gambling Commission, as referred to in the Muckleshoot Tribal/State Compact, Section II.

<sup>3</sup> According to Tribal/State Compacts, Conditional Certification may be granted when an applicant is an enrolled member of the employing Tribe, and does not otherwise qualify for certification. The applicant must meet certain criteria and not pose an appreciable risk to the public or to the gaming operation.

8) Based on the Class III employee/licensee's failure to pay court-ordered fines and fees, he poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices. Therefore, the Class III employee has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).

9) Therefore, under Section V(C) of the Muckleshoot Tribal/State Compact, RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3), and (8), grounds exist to suspend or revoke Brinnon Aasted's certification.

#### **Section V(C) of the Muckleshoot Tribal/State Compact**

The State Gaming Agency may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when a holder of certification:

(The following subsection applies.)

(1) Is determined to be a person whose prior activities, criminal record, or habits and associations pose a threat to the effective regulation of gaming.

#### **RCW 9.46.075 Denying, suspending, or revoking an application, license or permit**

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

#### **WAC 230-03-085 Denying, suspending, or revoking an application, license or permit**

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

**RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties**

(The following subsection applies.)

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

**V.**

The Class III Employee acknowledges that he has read the Notice of Administrative Charges and understands the facts contained in it.

Brinnon Aasted has now paid all but \$373 of his outstanding fines and fees. As a result, the Class III Employee has demonstrated that he no longer poses a threat to the effective regulation of gaming.

In the future, if Mr. Aasted renews or reapplies for a gambling certification or license, Commission staff will review the amount of any outstanding court ordered fines and fees and notify the Class III Employee if he no longer qualifies for certification or licensure. Mr. Aasted's failure to continue to reduce the amount of his outstanding court fines and fees may be a disqualifying factor for certification or licensure.

The Class III Employee did not request a hearing, but agrees to the terms and conditions of this Settlement Order, as follows:

1) Brinnon Aasted agrees that his Class III Employee certification is **suspended for a period of ten (10) days** provided that:

- a) **Three (3) days of the suspension shall not be currently served, but shall be deferred for a period of one year** from the date of entry of this Settlement Order, subject to the following: The Class III Employee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the one (1) year term. If the Class III Employee violates this Settlement Order or gambling statutes or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three-day deferred suspension of the current gambling certification and any subsequently acquired gambling licenses.
- b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this Settlement Order, has discretion to determine whether the Class III Employee has violated any term of this Settlement Order. In the event the Director determines that a violation has occurred, he may suspend the certification issued to the

Class III Employee, and any subsequently acquired certifications or licenses, for up to three days, by mailing or delivering a Notice of Order of Administrative Charges to the Class III Employee. This suspension shall be in addition to any consequences of the new violation. The Class III Employee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

c) **Mr. Aasted shall serve the remaining seven (7) days of this suspension, as follows:**

- **The suspension period will begin at 8:00 a.m. on Sunday, October 2, 2011, and run through Saturday, October 8, 2011.**
- **The Class III Employee may resume his gambling activities at 8:00 a.m. on Sunday, October 9, 2011.**

d) During this period of suspension, the Class III Employee shall have no involvement directly or indirectly, with any Class III Employee gambling activity. Mr. Aasted's suspension does not prevent him from working in any non-Class III gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.


**2) The signed order must be received by Commission staff on or before Friday, September 30, 2011.** The order must be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission  
Attention: Communications and Legal Division  
P.O. Box 42400  
Olympia, WA 98504-2400

or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission  
Attention: Communications and Legal Division  
4565 7<sup>th</sup> Avenue SE; Fourth Floor  
Lacey, WA 98503

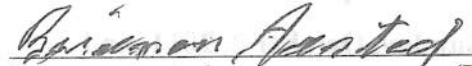
DATED this 6<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Administrative Law Judge


APPROVED FOR ENTRY:


APPROVED AS TO FORM:

By his signature, the Class III Employee  
understands and accepts the terms  
and conditions of this Order

  
Brinnon Aasted, (DATE)  
Class III Employee

9-19-2011

  
Brian Considine, WSBA #39517  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

  
Melinda A. Froud, WSBA# 26792  
Lead Staff Attorney,  
Washington State Gambling Commission